

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

NEW CENTURY FINANCIAL, INC.

VS.

OLEDIX TECHNOLOGIES, LLC,  
CURTIS R. MARTIN, THE OLEDIX  
STORE, LLC, PRACTICAL  
TECHNOLOGIES, INC., AND  
DILIP S. DALVI

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CIVIL ACTION NO. \_\_\_\_\_

JURY

**DEFENDANTS PRACTICAL TECHNOLOGIES, INC. AND**  
**DILIP S. DALVI'S NOTICE OF REMOVAL**

TO THE HONORABLE UNITED STATES DISTRICT COURT:

Defendants Practical Technologies, Inc. ("Practical Technologies") and Dilip S. Dalvi ("Dalvi") hereby file this Notice of Removal pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, removing the above-captioned case to the United States District Court for the Southern District of Texas, Houston Division. The grounds for removal are as follows:

**I. Introduction**

1. Plaintiff New Century Financial, Inc. ("New Century") at the time this action was commenced, was, and still is a citizen of the State of Texas.

2. Defendant Oledix Technologies, LLC ("Oledix") at the time of this action was commenced, was, and still is a citizen of the State of Maryland.

3. Defendant Curtis R. Martin ("Martin") at the time of this action was commenced, was, and still is a resident and citizen of the State of Maryland.

4. Defendant The Oledix Store, LLC ("Oledix Store") at the time of this action was commenced, was, and still is a citizen of the State of Maryland.

5. Defendant Practical Technologies, at the time this action was commenced, was, and still is a citizen of the State of Maryland.

6. Defendant Dalvi, at the time this action was commenced, was, and still is, a resident and a citizen of the State of Maryland.

7. This lawsuit arises from an “Agreement for Purchase and Sale of Accounts” between Oledix, Oledix Store, and New Century in relation to Oledix accounts receivables. Plaintiff’s Original Petition at p. 3, ¶ 10. Under this Agreement, Oledix would receive cash from New Century after making certain promises and warranties with respect to the collection of certain accounts receivables on payments to New Century. *Id.* at p. 3, ¶ 10. This Agreement is also known as “factoring.” *Id.* at p. 3, footnote 1. New Century factored an invoice for Oledix pertaining to Practical Technologies. *Id.* at p. 4, ¶ 15.

8. New Century has sued Practical Technologies and Dalvi for breach of the notice of assignment, fraud, civil conspiracy, negligent misrepresentation and tortious interference with contract. *Id.* at pp. 7-8. New Century seeks actual damages in the amount of at least \$240,625.00, costs of Court, attorney’s fees, pre-judgment and post-judgment interest. *Id.* at p. 6, ¶ 21.

## **II. Grounds for Removal**

### **A. Complete Diversity of Citizenship Exists Between the Parties and the Amount in Controversy Exceeds \$75,000.**

9. New Century is a Texas corporation. *Id.* at p. 1, ¶ 2. Oledix is a Maryland corporation, with its principal place of business in Maryland. *Id.* at p. 1, ¶ 3. Mr. Martin is a citizen and a resident of Maryland. *Id.* at p. 1, ¶ 4. Oledix Store is a Maryland corporation with its principal place of business in Maryland. *Id.* at p. 2, ¶ 5. Practical Technologies is a Maryland corporation with its principal place of business in Maryland. *Id.* at p. 2, ¶ 6. Mr. Dalvi is a

citizen and a resident of Maryland. *Id.* at p. 2, ¶ 7. Thus, the parties are completely diverse. *See* 28 U.S.C. § 1332(a).

10. The total amount of damages sought in Plaintiff's Original Petition exceeds \$75,000.00. *Id.* at p. 6, ¶ 21.

**B. Venue is Proper in this Division and in this District.**

11. New Century filed this action in Montgomery County, Texas. The Houston Division of the Southern District of Texas encompasses Montgomery County, Texas. Thus, this district and division embrace the place where the state court action is pending. *See* 28 U.S.C. § 1441(a).

**III. Procedural Requirements for Removal**

12. This Notice of Removal is filed within thirty days of January 16, 2013, the date on which Practical Technologies' agent and Mr. Dalvi were served with a copy of Plaintiff's Original Petition. Thus, this Notice of Removal is timely. *See* 28 U.S.C. § 1446(b).

13. Pursuant to Southern District of Texas Local Rule 81 and 28 U.S.C. § 1446(a), the following documents are also attached to this Notice of Removal:

- a. All executed process in this case (Exhibit A);
- b. Copies of all pleadings asserting causes of action and all answers to such pleadings (Exhibit B);
- c. The state court docket sheet (Exhibit C);
- d. Index of Matters Being Filed (Exhibit D); and
- e. A list of all counsel of record, including addresses, telephone numbers, and parties represented (Exhibit E).

14. A copy of this Notice of Removal will be filed with the Montgomery County District Clerk's office promptly and will be served on New Century promptly. *See* 28 U.S.C. § 1446(d); *see also Nixon v. Wheatley*, 368 F. Supp. 2d 635, 640 (E.D. Tex. 2005).

15. The filing fee has been paid to the Clerk.

16. Oledix, Mr. Martin, and Oledix Store have not had return of service filed for them in the state court case as of today's date and, thus, consent for removal is not required. Moreover, the undersigned counsel for Defendants Practical Technologies and Dalvi has attempted to contact the last-known counsel for Oledix and Mr. Martin on two different occasions, but have not received a response to their messages.

#### **IV. Prayer**

17. WHEREFORE, PREMISES CONSIDERED, Defendants Practical Technologies, Inc. and Dilip S. Dalvi pray that the above-styled action now pending in the 410th Judicial District Court of Montgomery County, Texas be removed therefrom to this Honorable Court.

18. This Notice of Removal is filed subject to and without waiver of any defenses or objections to New Century's Original Petition as allowed by the Federal Rules of Civil Procedure or by any applicable law.

Respectfully submitted,

**HAYS, McCONN, RICE & PICKERING**

By: /s/ Michael W. Magee

**MICHAEL W. MAGEE**

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**ATTORNEY-IN-CHARGE FOR  
DEFENDANTS PRACTICAL  
TECHNOLOGIES, INC. AND DILIP S. DALVI**

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing instrument was forwarded to all attorneys of record by CM/ECF, certified mail, return receipt request, hand delivery, fax and/or regular mail, on this the 14<sup>th</sup> day of February, 2013, as follows:

/s/ Michael W. Magee

**MICHAEL W. MAGEE**